

## Environmental Protection Agency

## § 59.404

(c) The exceedance fee to be paid for each coating must be determined using equation 2 as follows:

$$\text{Coating Fee}_c = \text{Fee Rate} \times \text{Excess VOC} \times \text{Volume Manufactured or Imported} \quad (2)$$

Where:

Fee Rate = The rate of \$0.0028 per gram of excess VOC.

Excess VOC = The VOC content of the coating, or adjusted VOC content of a recycled coating (if applicable), in grams of VOC per liter of coating, minus the applicable VOC content limit from table 1 of this subpart (that is, VOC content of the coating minus VOC content limit).

Volume Manufactured or Imported = The volume of the coating manufactured or imported per year, in liters, including the volume of any water and exempt compounds and excluding the volume of any colorant added to tint bases. Any volume for which a tonnage exemption is claimed under § 59.404 of this subpart is also excluded.

(d) The exceedance fee shall be submitted to EPA by March 1 following the calendar year in which the coatings are manufactured or imported and shall be sent to the address provided in § 59.409(b).

[63 FR 48877, Sept. 11, 1998; 64 FR 35001, June 30, 1999, as amended at 65 FR 7737, Feb. 16, 2000]

### § 59.404 Tonnage exemption.

(a) Each manufacturer and importer of any architectural coating subject to the provisions of this subpart may designate a limited quantity of coatings to be exempt from the VOC content limits in table 1 of this subpart and the exceedance fee provisions of § 59.403 of this subpart, provided all of the requirements in paragraphs (a)(1) through (a)(4) of this section are met.

(1) The total amount of VOC contained in all the coatings selected for

exemption must be equal to or less than 23 megagrams (25 tons) for the period of time from September 13, 1999 through December 31, 2000; 18 megagrams (20 tons) in the year 2001; and 9 megagrams (10 tons) per year in the year 2002 and each subsequent year. The amount of VOC contained in each coating shall be calculated using the procedure in paragraph (b) of this section. Compliance with the tonnage exemption will be determined based on the amount of VOC, as expressed in metric units.

(2) The container labeling requirements of § 59.405 of this subpart.

(3) The recordkeeping requirements of § 59.407(c) of this subpart.

(4) The reporting requirements of § 59.408(b) and (e) of this subpart.

(b) Each manufacturer and importer choosing to use the exemption described in paragraph (a) of this section must use equations 3 and 4 to calculate the total amount of VOC for each time period the exemption is elected. The VOC amount shall be determined without colorant that is added after the tint base is manufactured or imported.

$$\text{Total VOC} = \sum_{c=1}^n \text{VOC}_c \quad (3)$$

Where:

Total VOC = Total megagrams of VOC contained in all coatings being claimed under the exemption.

$\text{VOC}_c$  = Megagrams of VOC, for each coating (c) claimed under the exemption, as computed by equation 4.

n = Number of coatings for which exemption is claimed.

$$\text{VOC}_c = (\text{Volume Manufactured or Imported}) \times (\text{VOC Amount}) / 1 \times 10^6 \quad (4)$$

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Where:

Volume Manufactured or Imported =  
Volume of the coating manufactured or imported, in liters, including the volume of any water and exempt compounds and excluding the volume of any colorant added to tint bases, for the time period the exemption is claimed.

VOC Amount = Grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, including the volume of any water and exempt compounds."

[63 FR 48877, Sept. 11, 1998; 64 FR 35001, June 30, 1999]

### § 59.405 Container labeling requirements.

(a) Each manufacturer and importer of any architectural coating subject to the provisions of this subpart shall provide the information listed in paragraphs (a)(1) through (a)(3) of this section on the coating container in which the coating is sold or distributed.

(1) The date the coating was manufactured, or a date code representing the date shall be indicated on the label, lid, or bottom of the container.

(2) A statement of the manufacturer's recommendation regarding thinning of the coating shall be indicated on the label or lid of the container. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation must specify that the coating is to be applied without thinning.

(3) The VOC content of the coating as described in paragraph (a)(3)(i) or (a)(3)(ii) of this section shall be indicated on the label or lid of the container.

(i) The VOC content of the coating, displayed in units of grams of VOC per liter of coating or in units of pounds of VOC per gallon of coating; or

(ii) The VOC content limit in table 1 of this subpart with which the coating is required to comply and does comply, displayed in units of grams of VOC per liter of coating or in units of pounds of VOC per gallon of coating.

(b) In addition to the information specified in paragraph (a) of this section, each manufacturer and importer

of any industrial maintenance coating subject to the provisions of this subpart shall display on the label or lid of the container in which the coating is sold or distributed one or more of the descriptions listed in paragraphs (b)(1) through (b)(4) of this section.

(1) "For industrial use only."

(2) "For professional use only."

(3) "Not for residential use" or "Not intended for residential use."

(4) "This coating is intended for use under the following condition(s):" (Include each condition in paragraphs (b)(4)(i) through (b)(4)(v) of this section that applies to the coating.)

(i) Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposure of interior surfaces to moisture condensation;

(ii) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(iii) Repeated exposure to temperatures above 120° C (250° F);

(iv) Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or

(v) Exterior exposure of metal structures and structural components.

(c) In addition to the information specified in paragraph (a) of this section, each manufacturer and importer of any recycled coating who calculates the VOC content using equations 7 and 8 in § 59.406(a)(3) of this subpart shall include the following statement indicating the post-consumer coating content on the label or lid of the container in which the coating is sold or distributed: "CONTAINS NOT LESS THAN X PERCENT BY VOLUME POST-CONSUMER COATING," where "X" is replaced by the percent by volume of post-consumer architectural coating.

[63 FR 48877, Sept. 11, 1998; 64 FR 35001, June 30, 1999]

### § 59.406 Compliance provisions.

(a) For the purpose of determining compliance with the VOC content limits in table 1 of this subpart, each manufacturer and importer shall determine the VOC content of a coating using the procedures described in paragraph